



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JAN 30 2013

REPLY TO THE ATTENTION OF:

Marisol Simon
Regional Administrator, Region 5
Federal Transit Administration
200 West Adams Street, Suite 2410
Chicago, Illinois 60604

Re: Comments on the Second Supplemental Draft Environmental Impact Statement for the Minneapolis-St. Paul, Minnesota Central Corridor Light Rail Transit Project, CEQ No. 20120382

Dear Ms. Simon:

In accordance with U.S. Environmental Protection Agency responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Second Supplemental Draft Environmental Impact Statement (2SDEIS) for the Minneapolis - St. Paul, Central Corridor Project, in Hennepin and Ramsey Counties, Minnesota. The Federal Transit Administration (FTA) and the Metropolitan Council (MC) have proposed the Central Corridor Light Rail Transit (CC-LRT) line. This 11-mile line will serve the Minneapolis and St. Paul downtown areas, as well as the State Capitol complex, the University of Minnesota (U of M), and several neighborhoods, including diverse minority and low-income communities along University Avenue.

EPA has participated throughout the NEPA process for this project. In our July 27, 2009 comment letter on the Final EIS, we commended MC for its outreach efforts to the minority and low-income communities and the proposed resolutions of many concerns raised. We highlighted project revisions that were made to enhance community connectedness and safety by increasing the number of traffic lights with pedestrian crossings, developing transportation system management mechanisms to facilitate traffic and light rail speed, reduce congestion, redirecting left turn traffic to and from cross-street traffic, and modifying the light rail barrier curb system. We recommended the Record of Decision (ROD) include specific plans for parking loss mitigation, completion of the three proposed additional stations serving low-income communities, and continued discussions with the Rondo community about cumulative impacts regarding community cohesion and function.

We note that this 2SDEIS is unique in scope and timing. The 2SDEIS is in response to a court order; therefore, the scope is limited to consideration of the CC-LRT construction impacts to businesses. Further, the 2SDEIS is largely a retroactive study, because the

project is almost fully constructed; therefore, most construction-related impacts to businesses have already occurred.

Since NEPA is a planning tool, we typically review NEPA documents for future actions, and recommend appropriate changes or additions to consider in the planning decision. For this 2SDEIS, our review takes the perspective of what might have been proposed, and recommends what might be appropriate actions to consider at this time.

Based on the provided materials, we have assigned a rating of **Environmental Concerns-Insufficient Information (EC-2)**. A summary of our ratings definitions is enclosed. Our comments include:

- The need to define businesses within the project area;
- Clarification for what qualifies or disqualifies a business from receiving mitigation assistance;
- Further analysis of project impacts to businesses in the project area;
- Inadequacy of studies presented in the 2SDEIS;
- The need for additional effective public participation.

DEFINE BUSINESSES WITHIN THE PROJECT SITE

The 2SDEIS does not define what FTA and MC considers as a “business” within the project area. EPA is specifically looking for whether home-based or other non-traditional businesses were included in the referenced surveys and given consideration when developing mitigation measures and eligibility requirements. Because part of the project area includes high percentages of low-income, minority, or those with limited-English proficiency, it is not unreasonable that non-traditional businesses, such as cash-based or culturally-specific services are present. However, the 2SDEIS does not clarify whether these types of businesses, and other similar non-traditional businesses, were considered. A clear definition of what constitutes a business should be included in the 2nd Supplemental Final Environmental Impact Statement (2SFEIS) (i.e., must have a storefront, must have at least one employee, etc.)

Recommendation: EPA recommends a clear definition of a *business* be included in the 2SFEIS. This definition should consider the subtleties of non-traditional businesses that might be present within a low-income or minority community. This may take special adaptations of survey methods to fully and adequately include home-based, non-traditional, and/or part-time businesses, low income or minority participants, those with limited literacy or computer skills, or those with limited English proficiency, especially those reluctant to participate in any additional outreach.

As discussed in the 2SDEIS, the Volpe Transportation Research Center examined census bureau block data and determined there were 4,143 businesses within the project area zip codes. This is an overestimate, because not all businesses within these zip codes would be impacted by the project construction.

A second study by a Wilder Research team is discussed in Section 3.5, indicating it selected 436 "representative businesses" within the project site that would be expected to possibly experience direct impacts due to project construction based on location. Of the representative businesses surveyed, 201 responded to the survey instrument(s) and their report generalizes findings of impacts to the represented whole business community. It is unclear whether the representative 201 businesses accurately reflect the project site range of businesses. It is noteworthy however, that on page 31, Section 3.5.2.3, the Wilder Study representative businesses were selected from a list of 1,144 businesses the project had created itself with business names, locations, contact information and perhaps additional data.

Prior to the start of construction, a survey should have been made of all defined businesses along the project site corridor to establish a baseline condition, including information such as ownership, contact information, nature of each business, concerns businesses might have with coming construction, and some measure of each business's economic health, such as average annual gross income and operating expenses or other appropriate measures. This would have afforded the project a basis for understanding subsequent complaints and concerns, and would have provided a meaningful comparison for a similar post-construction survey. We acknowledge this is more evident in hindsight, but we find the two studies discussed in the 2SDEIS and others in the appendices insufficient for addressing concerns now raised by the business communities.

Recommendations: EPA recommends the 2SFEIS identify precisely each business within the project site *prior to construction*. This should include the name, location, owner or contact person and geographical and financial data relevant to understanding possible project impacts. . We recommend the existing list of 1,144 businesses be included in the 2SFEIS and suggest including a process to allow those believing they have a qualifying business not on the list to be considered for inclusion in this definition. The businesses that are known to no longer be located within the project site (either because of relocation or termination) should specifically be identified.

CLARIFY BUSINESS QUALIFICATIONS FOR MITIGATION ASSISTANCE

The 2SDEIS presents many efforts which have been made to address the business community's concerns, including:

- construction contract inclusions,
- project communication efforts,
- parking assistance programs,
- business assistance funds,

- Cedar Riverside Betterments, and
- Business access improvements.

These were all mitigation efforts created to respond to recognized developing business needs during project construction. These are explained in greater detail and listed in Table 3-20 as the 2SDEIS Preferred Alternative. Each of these measures has specific limitations and business qualification requirements for receiving mitigation. We commend the mitigation measures already implemented and designated as the 2SDEIS Preferred Alternative.

However, based upon presentations made at the 2SDEIS public hearings, January 10, 2013, many potentially eligible businesses may have: 1) misunderstood the qualifications; 2) concluded, perhaps erroneously, that they did not qualify and therefore did not seek mitigation; or 3) did not receive the needed information to apply for relief.

We note that the initial project ROD included a number of negotiated business mitigation measures or provided associated actions in some portions of the project construction zone

Recommendation: EPA recommends the 2SFEIS clarifies business qualifications for mitigation assistance. Those businesses that did receive relief may fit a narrow group and additional groups or needs should be identified for possible relief. Such additional groups, including businesses in low-income and/or minority neighborhoods, may be more evident once project site businesses are defined, per above. The 2SFEIS should also clarify if some groups of businesses are excluded from mitigation relief for specific reasons such as size, type of business, the nature of perceived project impacts, or other considerations.

ANALYZE PROJECT IMPACTS TO BUSINESSES IN THE PROJECT AREA

Once the above baseline business survey establishes what each project site business's status was prior to project construction, it is then feasible to consider what impacts the construction may have had on those businesses. A second survey should be completed as part of the 2SFEIS.

The studies referred to in the 2SDEIS and provided in the appendices used small, and selective samples, which were generalized as groups and may have overlooked factors specific to low-income and minority populations. Based on these studies, the 2SDEIS concludes that the overall outcome of constructing the CC-LRT was acceptable and no further mitigation is needed. While the studies may support that position for many businesses, they may have overlooked the many financially constrained and culturally oriented businesses within the project corridor.

During construction, the project area along University Avenue was widened from the rails and stations in the center of the avenue to encompass full reconstruction of the

avenue cross-section from building front to building front. The expansion of construction increased the impacts of the project on avenue businesses. The 2SDEIS is not clear whether these increased impacts associated with building front to building front reconstruction are adequately covered by the mitigation measures offered to affected businesses.

Recommendation: The 2SFEIS should include a further analysis that accurately reflects the changes each defined project site business experienced due to impacts from construction of the CC-LRT project.


ENHANCE EFFECTIVE PUBLIC PARTICIPATION

We commend the efforts that have been made to engage and address the businesses and diverse communities in the project area during construction. Appendix L of the 2SDEIS provided detailed documentation of this outreach, including records of the 835 meetings held along the project corridor from May 2011 to June 2012. We commend the CC-LRT project team for establishing a hotline and website that were made available to the public. However, based on the information provided in the 2SDEIS and testimony at the January 10, 2013 public hearings, EPA continues to have some concerns about the effectiveness of public outreach, notably to low-income and/or multi-cultural businesses.

Recommendation: EPA recommends the 2SFEIS identify what businesses were not successfully contacted to date, determine why, and make additional efforts to reach those businesses to inform them of mitigation opportunities for which they may qualify. This project offers an excellent opportunity for FTA and other federal agencies to gain insights into how to effectively engage diverse communities.

Thank you for the opportunity to review and comment on the 2SDEIS for the Central Corridor Project. Should you have any questions regarding these comments, please feel free to contact me or my staff member Norm West, at 312-353-5692 or west.norman@epa.gov or Elizabeth Poole at 312-353-2087 poole.elizabeth@epa.gov.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure: EPA Summary of Rating Definitions and Follow-up Action

Cc: Kathryn O'Brien
Environmental Services Project Manager, MC